

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DOUGLAS BALSEWICZ,

Plaintiff,
v. Case No. 17-cv-1568-pp

PAUL KEMPER, *et al.*,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
(DKT. NO. 48) AND DISMISSING CASE**

Plaintiff Douglas Balsewicz is representing himself in this §1983 case. He is proceeding on claims arising under the First and Eighth Amendments. Dkt. No. 12. Six months ago, on January 15, 2020, the defendants moved for summary judgment. Dkt. No. 48. Under the scheduling order the court issued on August 17, 2018 (dkt. no. 16), the plaintiff's response was due within thirty days of service of the motion—by February 14, 2020. A couple of weeks after the defendants filed their motion, on January 31, 2020, Magistrate Judge Nancy Joseph (to whom the court referred this case to handle pretrial matters) issued a notice and warning. Dkt. No. 60. Judge Joseph informed the plaintiff that his response materials were due by February 14, 2020, and she explained the procedure and requirements for responding to the defendants' motion. Id.

Judge Joseph also reminded the plaintiff that, under Civil L. R. 7(d) (E.D. Wis.), a party's failure to respond to a motion is cause for the court to grant the motion. Id. at 2. She told the plaintiff that, if he needed more time to respond

to the motion, he was required to file a motion asking the court to extend his response deadline, and that he had to file that motion *before* the deadline that he wanted extended expired. Id. Finally, Judge Joseph warned the plaintiff that if he did not respond to the defendants' motion or request additional time to do so before the deadline, the court would grant the motion and dismiss this case. Id.

On February 10, 2020, the plaintiff requested an extension of his response deadline. Dkt. No. 61. Judge Joseph granted his motion and extended the deadline to respond to April 14, 2020. Dkt. No. 62. The plaintiff requested a second extension of the deadline on April 8, 2020. Dkt. No. 63. In a text-only order entered on April 10, 2020, Judge Joseph granted his request. She explained that General Order No. 20-8 applied to his case and, under that order, his response materials were due forty-five days after Governor Tony Evers' Safer at Home order either was lifted or expired.

The Wisconsin Supreme Court struck down Governor Evers' order on May 13, 2020, which meant that under General Order No. 20-8, the plaintiff had to file his response materials by June 29, 2020. To ensure the plaintiff was aware of the deadline, Judge Joseph entered a text-only order on June 1, 2020, informing the plaintiff of the deadline.

That June 29, 2020 deadline has come and gone and the plaintiff has neither responded to the defendants' motion nor requested more time to do so. The plaintiff now has had six months to prepare and file his response materials. The defendants are entitled to have their motion and this case

resolved in a timely manner. Judge Joseph previously warned the plaintiff that to respond to a motion was cause for the court to grant it.

Under Civil Local Rule 7(d), the court **GRANTS** the defendants' motion for summary judgment based on the plaintiff's failure to oppose it. Dkt. No. 48.

The court **ORDERS** that this case is **DISMISSED** and will enter judgment accordingly.

Dated in Milwaukee, Wisconsin, this 24th day of July, 2020.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge